

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

NEBRASKA DATA CENTERS, LLC,
and AMERICAN NEBRASKA LIMITED
PARTNERSHIP,

Plaintiffs,

vs.

LEO KHAYET, and TIMBER
VENTURES, LLC,

Defendants.

8:17CV369

ORDER TO SHOW CAUSE

The above-captioned action was filed on October 5, 2017. ([Filing No. 1](#)). Defendant Khayet was served on October 20, 2017, and was initially represented by counsel. His counsel moved to withdraw on December 19, 2017. The motion to withdraw was addressed and granted at a hearing held before Judge Smith Camp on December 21, 2017. During that hearing, Judge Smith Camp advised Defendant Khayet as follows:

I will let you know that proceeding pro se in a case such as this is not likely in your best interest.

I am aware that you have been contacting court staff asking for advice, asking for guidance; and we really can't give you legal advice. That's not possible.

So if you believe that you will be receiving advice from the court staff, either chambers staff or the clerk's office, you are not. You are going to be on your own.

([Filing No. 60, at CM/ECF p. 5](#), lines 17-25). Defendant Khayet has appeared pro se since that time.

Although there are now 178 filings in this case, it has not progressed past the pleading stage. Plaintiff's second amended complaint, ([Filing No. 166](#)), filed on May 25, 2018, adds Timber Ventures LLC as a defendant. Timber Ventures was served on May 29, 2018. Defendant Khayet's answer to the second amended complaint is now due on June 15, 2018. Defendant Timber Ventures must file its answer on or before June 19, 2018. (Filing No. 178).

On May 2, 2018, I entered an order prohibiting Defendant Khayet from initiating any direct contact with my chambers, whether by email, telephone, or in person. ([Filing No. 145](#)). The following day, Defendant Khayet filed a notice praising members of the clerk's office for their exceedingly professional assistance in navigating the procedural issues related to pleadings, ([Filing No. 146](#)). But the notice further commented that "on May 3, 2018, a staff member from the Clerk's Office advised Defendant Mr. Khayet (3) three separate times that the 'Clerk Office staff were not attorneys and cannot give legal advice.'" ([Filing No. 146, at CM/ECF p. 2](#)). Defendant Khayet stated he "has **never** asked for legal advice from the Clerk's Office or Court staff." ([Filing No. 146, at CM/ECF p. 2](#)). (emphasis in original).

Less than three weeks later, Defendant Khayet filed a motion requesting the court to enter an order requiring the clerk's office to direct all his calls to a supervisor because he had "received (3) three conflicting answers by (3) three separate personnel in response to his 'identical' procedural inquiry." ([Filing No. 160](#)). Although the court denied this motion, (Filing No. 161), the Chief Deputy Clerk responded to Defendant Khayet's concerns by letter. ([Filing No. 179, at CM/ECF p. 1](#)).

Between June 12, 2018 at 6:02 a.m. until June 14, 2018 at 6:22 a.m., Defendant Khayet sent 19 emails to the Chief Deputy Clerk. Defendant Khayet expresses concern that the “[informal] policies governing general communication between the clerk’s office and chambers staff’ have impeded and continue to interfere with the orderly progression of the District of Nebraska case 8:17-CV-00369.” ([Filing No. 179, at CM/ECF p. 7](#)). His email sent late yesterday afternoon states he is reviewing “appropriate and necessary legal steps that may need to be taken” as a result of the Chief Deputy Clerk’s miscommunications and her inconsistent responses to Defendant Khayet’s questions. ([Filing No. 179, at CM/ECF p. 58](#)). At 6:22 a.m. today, Defendant Khayet requested that all his communications with the clerk’s office be handled by only the Clerk of Court, “reserve[ing] the legal right to brief the above matters to the Honorable United States District Judge Carlos Murguia and the Honorable United States Magistrate Judge Gerald L. Rushfelt in their capacity overseeing the disposition and pre-trial matters in the District of Kansas case 2:17-CV-02624.” ([Filing No. 179, at CM/ECF p. 59](#)).

This court has inherent authority to enter and enforce orders which eliminate or limit disruption of clerk’s office functions, thereby providing for the efficient disposition of all cases before the court. Those orders can include barring or limiting a party’s contact with the clerk’s office. See [Burns v. Minnesota](#), 61 F.3d 908, 1995 WL 431292 (8th Cir. 1995) (affirming "an order of the district court requiring [pro se litigant] to stop telephoning the court's chambers and to communicate with the court and court personnel only in writing" because such an "order relates to [the court's] inherent power to control its docket and the progression of cases before it"). See also, [Bethel v. Baldwin Cty. Bd. of Educ.](#), 371 F. App'x 57, 62 (11th Cir. 2010).

Accordingly,

IT IS ORDERED:

1) Defendant shall show cause why an order should not be issued prohibiting him from physically accessing the Clerk's Office of the United States District Court for the District of Nebraska, and from contacting that clerk's office telephonically, by email, or by any means other than electronic docket filings for judicial ruling. Any documents supporting Defendant Khayet's show cause filing shall be electronically docketed in this case on or before 5:00 p.m. on June 18, 2018.

2) A telephonic hearing will be held before the undersigned magistrate judge on June 19, 2018 at 3:00 p.m. regarding the issue of whether Defendant Khayet will be prohibited from further contact with the clerk's office as set forth in paragraph 1 of this order, and

- a. Defendant Khayet shall telephonically appear at the hearing; Counsel for Plaintiff may but need not attend.
- b. Those attending the hearing, including Defendant Khayet, shall use the following conferencing instructions to participate in the call:

Dial 1-877-336-1828
Enter access code: 5957780
Enter security code: 0369 and press the # key
Press (1) to accept, (2) to reenter.

3) Defendant Khayet is hereby notified that failing to attend the hearing as scheduled will result in entry of an order, without further notice, which prohibits him from physically accessing the Clerk's Office of the United States District Court for the District of Nebraska, and from contacting that clerk's office

telephonically, by email, or by any means other than electronic docket filings for judicial ruling.

June 14, 2018.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge